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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/622,631

07/21/2003

Manuel R. Silva JR.

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10/12/2007

TYCO ENGINEERED PRODUCTS & SERVICES
ATTN: INTELLECTUAL PROPERTY LAW DEPARTMENT
9 ROSZEL ROAD
PRINCETON, NJ 08540

EXAMINER

GORMAN, DARREN W

ART UNIT

PAPER NUMBER

3752

MAIL DATE

DELIVERY MODE

10/12/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/622,631

Applicant(s)

SILVA ET AL.

Examiner

Darren W. Gorman

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-134, 136 and 138-153 is/are pending in the application.
- 4a) Of the above claim(s) 2, 3, 5, 8-10, 12-26, 36-47, 52-54 and 58-134 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4, 11, 27-35, 48-51, 55-57, 136 and 138-153 is/are allowed.
- 6) ☒ Claim(s) 7 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 09/26/2007.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 13, 2007 has been entered, and subsequently submitted supplemental amendments filed on July 23, 2007 and September 26, 2007 have been entered.

Information Disclosure Statement

2. The IDS filed on September 26, 2007 is hereby acknowledged and has been placed of record. Please find attached a signed and initialed copy of the PTO 1449.

Examiner's Notes

3. With respect to the most recently submitted and entered listing of claims, filed September 26, 2007, it is noted that status identifiers for several of the claims are incorrect. The Examiner and Applicant's representative had verbally discussed rejoining some of the previously withdrawn claims which depend from independent claim 51, in the event that claim 51 be allowed, due to claim 51 being generic to some of the identified species. However, prior to the present office action, claim 51 has not been allowed. Thus, the restriction requirement, including

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the species which independent claim 51 generically reads on, has not yet been withdrawn, and the claims (2-26, 36-47, 52-54 and 58-134), which were withdrawn as set forth in the office action mailed June 14, 2006, should have retained their status identifiers as "withdrawn" claims.

Election/Restrictions

4. Claim 51, as now amended, is generic to previously identified species "C", "D" and "H", as represented by drawing Figures 3A-3F, 4A-4E and 8A-8F, respectively, and claim 51 is allowed. Accordingly, the restriction requirement as to species "C", "D" and "H" is hereby withdrawn and claims 4, 6, 7 and 11, directed to species "D" and/or "H" previously withdrawn from consideration as a result of the restriction requirement are no longer withdrawn, and are hereby rejoined and fully examined for patentability under 37 CFR 1.104.

However, withdrawn claims 2, 3, 5, 8-10, 12-26, 36-47, 52-54 and 58-134 remain withdrawn from consideration because they are drawn to mutually exclusive non-elected species, and/or they do not depend from or otherwise require all of the limitations of an allowable claim. It is noted, as per Applicant's remarks on page 55 of the "Remarks" section, that Applicant requests withdrawal of the restriction requirement with regard to independent claims 58 and 72 and the claims depending therefrom, since Applicant asserts that these claims read on species "D" and "H", respectively. Although these claims may read on the species rejoined above, Applicant is not entitled to rejoinder of claims 58-61 and 72-74, since these claims do not depend from or otherwise require all of the limitations of an allowed claim (see MPEP 821.04(a)).

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Claim Objections

5. Claim 6 is objected to because of the following informalities: The recitation, “the second means” is repeated on line 2 of claim 6. The duplicate recitation should be deleted.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

7. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7, which appears to read only on the species shown in Figures 4A-4E, recites that the “member” extends across the passageway and connects to the inner surface of the structure at a plurality of points of the inner surface, and the member contacts at least one of the locator and metallic disc annulus to translate the face of the annulus to a side of the longitudinal axis when the locator moves from the first position toward the second position. With reference to Figures 4A-4E, the member (understood by the Examiner to be element #411) never contacts any part of the locator or the metallic disc annulus at any time, thus the claim is indefinite.

Allowable Subject Matter

8. Claims 4, 11, 27-35, 48-51, 55-57, 136 and 138-153 are allowed.

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9. Claim 6 would be allowable if rewritten to overcome the claim objection as set forth above under paragraph 5 in this Office action, and to include all of the limitations of the base claim and any intervening claims.

10. Claim 7 would be allowable if rewritten to overcome the rejections under 35 U.S.C. 112, 2nd paragraph, set forth above under paragraph 7 in this Office action, and to include all of the limitations of the base claim and any intervening claims.

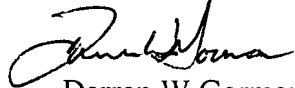
Conclusion

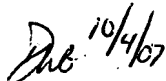
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darren W. Gorman whose telephone number is 571-272-4901. The examiner can normally be reached on M-F 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Darren W Gorman
Examiner
Art Unit 3752


DWG
October 4, 2007